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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,202	03/29/2004	Daniel J. Lipscomb	048679-0157	1384
26371	7590	07/27/2005	EXAMINER	
FOLEY & LARDNER 777 EAST WISCONSIN AVENUE SUITE 3800 MILWAUKEE, WI 53202-5308			JACYNA, J CASIMER	
			ART UNIT	PAPER NUMBER
			3751	

DATE MAILED: 07/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/812,202

Applicant(s)

LIPSCOMB ET AL.

Examiner

J. Casimer Jacyna

Art Unit

3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>07072004</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 28-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 28-30 are drawn to a method and include method steps but are all dependent from apparatus claims wherein there is no clear antecedent basis for the method steps in claims 28-30 in the parent apparatus claims. The antecedent for claims 28-30 is in claim 27.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-4, 8-18, 22-26 and 28-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Burke. Burke discloses a flow regulating apparatus for tube 29 including a housing 16, a rotatable adjustment mechanism 12, a stopper 52, with first, second and a plurality of intermediate positions as indicated by 60, a curved portion at 28 with a flange 24 that assists in securing the hose 29, wherein hose 29 is capable of being used to water a garden as claimed if a user so desired.
5. Claims 1-10, 13, 16-22, 24, 25, 27 and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Cole. Cole discloses a flow regulating apparatus for tube 70 that is positioned between a water source 22, 23 and a water accessory 82 including a housing 30, a rotatable adjustment mechanism 55, a stopper 48, with first, second and

a plurality of intermediate positions as indicated by 59, a curved portion at 64 with a flange or lip 66 that assists in securing the hose 70, and a guide (see claim 21) 43.

6. Claims 1-4, 8-14, 16-18 and 22-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Wall. Wall discloses a flow regulating apparatus for a garden hose 29 that is positioned between a water source as is the house spigot shown in figure 1, and a water accessory as is the sprinkler shown in figure 1, including a housing 12, a rotatable adjustment mechanism 14, a stopper 26, wherein 14 is capable of being turned to be fully open or closed or first and second positions as claimed, and a plurality of intermediate positions as claimed, and a curved portion at 17 with a securing flange or lip 19 that assists in securing the hose 29 as claimed.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Pulver, Schisler and Forcier teach the use of fire hose clamps that also would be applicable for use on a garden hose. Campau teaches the use of a hose clamp made entirely from plastic as disclosed on col. 3, line 16. Figure 6 of Braddock teaches the use of a wedge shaped hose clamp.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Casimer Jacyna whose telephone number is 571-272-4889. The examiner can normally be reached on Wed. thru Fri. 9AM-7PM, Mon. 7AM-1PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on 703-272-4835. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "J. Casimer Jacyna", with a long horizontal flourish extending to the right.

J. Casimer Jacyna  
Primary Examiner  
Art Unit 3751

JCJ